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Attorneys for Defendant Rabo AgriFinance LLC

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION**

IN RE: McCLAIN FEED YARD, INC., McCLAIN FARMS, INC. and 7M CATTLE FEEDERS, INC., Debtors. ¹	CASE NO. 23-20084-7-rlj (Jointly Administered Cases) Chapter 7
AGTEXAS FARM CREDIT SERVICES; AGTEXAS, PCA; and THORLAKSON DIAMOND T FEEDERS, LP	ADV. PROC. NO. _____

¹ The Debtors in these jointly administered Chapter 7 cases are: (a) McClain Feed Yard, Inc. (Case No. 23-20084), (b) McClain Farms, Inc. (Case No. 23-20885) and 7M Cattle Feeders, Inc. (Case No. 23-20886). All three cases are being jointly administered under the case number for McClain Feed Yard, Inc.

Plaintiffs,
and

EDWARD DUFURRENA, OPEN A ARENA, LLC'S, DENNIS BUSS, BUSS FAMILY TRUST, EDDIE BRYANT, ROBERT E. GRAY, RONNIE GRAY, GRAY BROTHERS, CRAIG SUTTON, AMY SUTTON, STEVE RYAN, JANICE LAWHON, AJ JACQUES LIVING TRUST, GUNGOLL CATTLE, LLC, LEAH GUNGOLL, MORRISON CAFÉ, LLC, GARY LESH, JAN LESH, LESH FAMILY TRUST, JARED LESH, JORDAN LESH, LLC, JOEL BROOKSHIRE, GENE BROOKSHIRE FAMILY, LP, DOUGLAS FINLEY, SCARLET AND BLACK CATTLE, LLC, BRYAN BLACKMAN, STEVE T SCOTT FARM, INC., SCOTT LIVESTOCK COMPANY, INC., ARNOLD BRAUN TRUST, ROBERT BRAUN, JIM RININGER, ROBERT SPRING, MICHAEL EVANS, MIRANDA EVANS, CHARLES LOCKWOOD, COLE LOCKWOOD, SHERLE LOCKWOOD, NIKKI LOCKWOOD, LYNDAL VAN BUSKIRK, JANET VAN BUSKIRK, COLBY VAN BUSKIRK, SUSAN VAN BUSKIRK, JIMMY GREER, DUSTIN JOHNSON AND DORA BLACKMAN,

Intervenors-Plaintiffs,

v.

RABO AGRIFINANCE LLC; HTLF BANK, AS SUCCESSOR TO FIRST BANK & TRUST; SHAWN RAGLAND; MECHANICS BANK; AND MEAGAN GOAD,

Defendants.

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§1441, 1446 and 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure, Defendant Rabo AgriFinance LLC (“**RAF**”), through counsel, hereby removes to the United States Bankruptcy Court for the Northern District of Texas, Amarillo Division, the following case or, alternatively, all claims and causes of action asserted against RAF in the following case:

AgTexas Farm Credit Services et al v. Rabo AgriFinance LLC et al, Cause No. CI-2023D-025, currently pending in the 222nd Judicial District Court, Deaf Smith County, State of Texas (hereinafter the “**State Court Action**”).

Pursuant to 28 U.S.C. §§ 1441, 1446 and 1452(a) and Federal Rule of Bankruptcy Procedure 9027(a)(1), RAF states the following grounds for removal:

1. On April 21, 2023, Plaintiffs AgTexas Farm Credit Services, AgTexas, PCA, and Thorlakson Diamond T Feeders, LP (collectively, “**Plaintiffs**”) filed their original petition in the State Court Action (the “**Petition**”) against McClain Feed Yard, Inc., 7M Cattle Feeders, Inc., RAF, and Chelsea Walters McClain.
2. Plaintiffs never served RAF with the Petition.
3. Plaintiffs filed an amended petition in the State Court Action on April 28, 2023 (the “**First Amended Petition**”).
4. The First Amended Petition named as defendants, among others, McClain Feed Yard, Inc., McClain Farms, Inc., and 7M Cattle Feeders, Inc. (collectively, the “**Bankruptcy Debtors**”).

5. That same day, Bankruptcy Debtors filed their voluntary petitions for relief under chapter 7 of the Bankruptcy Code with this Court, Case Nos. 23-20084, 23-20085 and 23-20086 (Bankr. N.D. Tex).

6. Plaintiffs never served RAF with the First Amended Petition.

7. On March 5, 2024, Plaintiffs filed a second amended petition (the “**Second Amended Petition**”) in the State Court Acton.

8. That same day, Plaintiffs filed a Notice of Partial Nonsuit Without Prejudice related to their claims against the Bankruptcy Debtors.

9. Plaintiffs never served RAF with the Second Amended Petition.

10. On March 21, 2024, Plaintiffs filed a third amended petition (the “**Third Amended Petition**”).

11. On March 25, 2024, RAF accepted service of the Third Amended Petition.

12. 28 U.S.C. § 1446(b) generally provides that a “notice of removal of a civil action or proceeding shall be filed within 30 days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based . . .”

13. Notwithstanding the “or otherwise” language in Section 1446(b), the United States Supreme Court held in *Murphy Bros. v. Michetti Pipe Stringing, Inc.*, 528 U.S. 344, 347 (1999) that the 30-day removal period is not triggered for a complaint removable on its face until the defendant has been served with process. RAF has filed this Notice of Removal within thirty (30) days of being served with the Third Amended Petition.

14. This Court has original jurisdiction over the claims and causes of action asserted in the State Court Action against RAF pursuant to 28 U.S.C. § 1334 because (1) the Debtors filed a voluntary bankruptcy petition and (2) the claims and causes of action against RAF are related to the Bankruptcy Debtors' bankruptcy cases in that they could alter the Bankruptcy Debtors,' RAF's and Plaintiffs' rights, liabilities, options, or freedom of action (either positively or negatively) and because they could impact the handling and administration of the bankrupt estates of the Bankruptcy Debtors. Therefore, this action is removable under 28 U.S.C. § 1452.

15. Furthermore, 28 U.S.C. § 1441(a) provides that except as otherwise provided by Act of Congress, "any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending."

16. Here, this Court has original jurisdiction of the claims asserted against RAF in the State Court Action pursuant to 28 U.S.C. § 1334(b), because such claims are "related to" the Debtors' Chapter 7 bankruptcy cases.

17. This Notice of Removal is timely filed under Fed. R. Bank. P. 9027 and under 28 U.S.C. § 1446(b).

18. This adversary proceeding is a core proceeding within 28 U.S.C. § 157.

19. Upon removal of this action, RAF consents to the entry of final orders and/or judgment by this Court.

Pursuant to Fed. R. Bank. P. 9027(c), simultaneously with this filing, RAF is filing the Notice of Removal to Bankruptcy Court (without exhibits) attached hereto as Exhibit A with the 222nd Judicial District Court, Deaf Smith County, State of Texas, and serving a copy on Plaintiffs.

Pursuant to Fed. R. Bank. P. 9027(a)(1), this Notice of Removal is accompanied by a copy of all process and pleadings in the State Court Action, collectively attached as Exhibit B.

DATED this 28th day of March, 2024.

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/s/ Michael R. Johnson

Michael R. Johnson

Attorneys for Rabo AgriFinance LLC

CERTIFICATE OF SERVICE

I hereby certify that on March 28, 2024, the foregoing NOTICE OF REMOVAL was filed with the Clerk of the Court in the above-entitled case, which sent notice of electronic filing to all electronic filing users in the case.

/s/ Michael R. Johnson

Michael R. Johnson

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